

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:)	
)	
Opinion requested by:)	No. 75-204
Ken Sobieski)	June 1, 1976
Chairman of the Long Beach)	
Voter Registration Committee))	

BY THE COMMISSION: We have been asked the following question by Ken Sobieski, Chairman of the Long Beach Voter Registration Committee:

The Long Beach Voter Registration Committee (hereinafter the "Committee") is a committee organized for the purpose of encouraging voter registration in the greater Long Beach area. The Committee is the voter registration program of the Democratic State Central Committee in the 31st Senatorial District, and the Committee carries on no activities except voter registration. As part of the voter registration program, the Committee encourages registered Democrats who live in Los Angeles County but who have moved to a new address in the county to reregister at their new address. The Committee sends out a form letter and a postage-paid change of address card on a form provided by the Registrar of Voters of Los Angeles County. These letters are mailed out a few at a time, but over a period of time undoubtedly 200 or more will be mailed.

On the basis of these facts, Mr. Sobieski has asked whether the registration cards are a mass mailing subject to the provisions of Government Code Section 84305.

CONCLUSION

If two hundred or more of the voter registration materials are sent in a calendar month, the mailing is a "mass mailing." Government Code Section 82041.5, 2 Cal. Adm. Code Section 18241. Moreover, the costs of distributing the mailing are "expenditures" because the materials are distributed by a subcommittee of an official committee of a political party. Accordingly, the mass mailing must be identified and mailed as required by Government Code Section 84305. However, the mailing is not "in support of or in opposition to a state candidate" and a copy need not be sent to the Commission.

ANALYSIS

The term "mass mailing," as defined in Government Code Section 82041.5,^{1/} means "two hundred or more identical or nearly identical pieces of mail, but does not include a form letter or other mail which is sent in response to a request, letter or other inquiry." A regulation implementing this section provides that the term "mass mailing" refers to two hundred or more identical or nearly identical pieces of mail sent within a calendar month. 2 Cal. Adm. Code Section 18241. The materials distributed by the Long Beach Voter Registration Committee are identical in form. However, in each case, the voter registration card is filled in with the voter's name as previously registered, as well as the voter's old and new addresses. While the addition of a voter's name and address tailors the mailing to fit the circumstances of each recipient, the basic form and purpose of the mailing is identical in every case. Therefore, we conclude that the materials are "nearly identical" within the meaning of Section 82041.5, and that distribution of the voter registration materials is a mass mailing if 200 or more registration packets are mailed in any one calendar month.

Having determined that the voter registration materials may be a mass mailing, we must turn to the requirements set forth in Section 84305, which provides:

No person shall make an expenditure for the purpose of sending a mass mailing the cost of which is reportable pursuant to this chapter unless the postage is paid by postage meter, the mail is sent by bulk rate mail or the sender shows on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of such mailing the sender's name, street address and city in no less than 6-point type. The bulk rate number or meter number shall be stated in a campaign statement, and a copy of every mass mailing in support of or in opposition to a state candidate or state measure shall be sent to the Commission on the same day on which it is mailed to the public generally....

^{1/} All statutory references are to the Government Code unless otherwise noted.


The first sentence of Section 84305 applies only to "a mass mailing the cost of which is reportable" as an expenditure. The Committee is the voter registration program of the Democratic State Central Committee in the 31st Senatorial District. As such, it is a subcommittee of the Democratic State Central Committee, an official committee of the Democratic Party. Consequently, all funds that the Voter Registration Committee disburses are "expenditures." 2 Cal. Adm. Code Section 18225(b)(3). Because the costs of carrying on the voter registration program are reportable expenditures, the Long Beach Voter Registration Committee must comply with applicable provisions of Section 84305.^{2/}

If the registration materials are a mass mailing and are sent by first class mail, the envelope and at least one insert must contain "the sender's name, street address and city in no less than 6-point type." The outside of the envelopes used by the Committee contain the return address "Long Beach Voter Registration Committee, P. O. Box 96, Long Beach, CA 90801" in bold face type that is larger than the statutorily required 6-point type. Stationery used by the Committee bears the same heading. Although it is undisputed the mailer identification exceeds the size required by statute, the address refers to a post office box number rather than a street address. However, the street address of the committee is a matter of public record because the committee has filed a statement of organization with the Secretary of State. Long Beach Voter Registration Committee, I.D. #744260, filed January 29, 1976. Moreover, the letter enclosed with the voter registration materials clearly identifies the sponsoring organization by stating the "Long Beach Voter Registration Committee is the voter registration program of the Democratic State Central Committee in the 31st Senatorial District (Long Beach, Lakewood, Carson, Hawaiian Gardens and Signal Hill)." The cover letter also includes the Committee's telephone number. Thus, any interested member of the public will be able to locate the Committee. We think that under these circumstances it comports with the purposes of the Political Reform Act to conclude that the committee stationery in its present form substantially complies with the requirements of Section 84305. Accordingly, the committee need not alter its envelopes or inserts.

^{2/} Our holding is limited to costs incurred by a subcommittee of an official committee of a political party. This opinion should not be read to imply that nonpartisan organizations which carry on voter registration activities have incurred reportable expenditures. See 2 Cal. Adm. Code Section 18225(c).

Finally, we must determine whether the voter registration materials constitute a mailing "in support of or in opposition to a state candidate or state measure" a copy of which must therefore be sent to the Commission. The voter registration materials are distributed to registered Democrats by the Democratic Party. However, the mailing does not mention Democratic candidates or in any way encourage support for Democratic candidates. Undoubtedly, the voter registration program has an indirect benefit for Democratic candidates, including Democratic state candidates, but this indirect benefit is not sufficient to make the registration program a mailing in support of or opposition to state candidates.^{3/} Accordingly, copies of the Committee's mailings of voter registration materials need not be forwarded to the Commission.

Approved by the Commission on June 1, 1976. Concurring: Carpenter, Lapan and Quinn. Commissioners Brosnahan and Lowenstein dissent.


T. Anthony Quinn
Commissioner

LOWENSTEIN, CHAIRMAN, DISSENTING IN PART: In 1975 the Legislature amended Section 84305 to permit a person making a mass mailing to use a "street address," Cal. Stats. 1975, Ch. 915, but it did not authorize the use of a post office box. Accordingly, regardless of the information provided on the envelope and stationery at issue here, use of a post office box is contrary to the express requirement of the statutory provision and I would so rule in response to the opinion request presented to us. I agree with the remainder of the Commission's opinion.


Daniel H. Lowenstein
Chairman

Commissioner Brosnahan joins in this dissent.

^{3/} We previously have interpreted Section 84305 to require that "a copy of any mass mailing which supports a party's state candidates must be sent to the Commission, whether or not the names of any specific candidates are mentioned." Opinion requested by Joyce Valdez, Golden Circle of California, 2 FPFC Opinions 21 (No. 75-167, February 3, 1976). However, that mailing solicited funds to support candidates of a particular party.